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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,685	03/19/2004	Brian J. Conaway	3984500-146939	8539

7590 07/15/2005

ATTN: Intellectual Property Department  
Porter, Wright, Morris & Arthur LLP  
28th Floor  
41 South High Street  
Columbus, OH 43215-6194

EXAMINER
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AVERY, BRIDGET D

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/805,685

Applicant(s)

CONAWAY ET AL.

Examiner

Bridget Avery

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) 4, 15-17, 25 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-14, 18-24, 26-32 and 34-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### ***Election/Restrictions***

1. Applicant's election of Species II (Figures 16 and 17) in the reply filed on April 22, 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 4, 15-17, 25 and 33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 22, 2005.

### **DETAILED ACTION**

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 5-8, 10-12, 18-21, 23, 26-28, 30-32, 35, 36 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Aielli (US Patent 6,186,523).

Aielli teaches a wheelbarrow similar to applicant's including:

- A rigid front bracket (14)
- A wheel (12) rotatably secured to the front bracket (14)

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- First and second handle arms pivotally attached to the bracket (14) at laterally spaced apart pivot axes (18)
- A rigid tray (44) removably secured to the first and second handle arms (16)
- The first and second pivot axes (18) are perpendicular to the axis of rotation of the wheel (12)
- The bracket (14) is "generally" U-shaped with first and second laterally spaced-apart leg sections rearwardly extending from a front section
- The first and second pivot axes (18) are located at opposed sides of the wheel (12)
- A clamping device (42, 43) removably applying a clamping force between the first and second arms (16)

4. Claims 1-3, 5, 7, 8, 10-14, 18, 20, 21, 31, 32 and 38 are rejected under 35

U.S.C. 102(b) as being anticipated by Scott (US Patent 2,672,348).

Scott teaches a wheelbarrow similar to applicant's including:

- A rigid front bracket (17, 18)
- A wheel (10) rotatably secured to the front bracket (17, 18)
- First and second handle arms pivotally attached to the bracket (14) at laterally spaced apart pivot axes (20)
- A rigid tray (A) removably secured to the first and second handle arms (11, 12)
- The first and second pivot axes (20) are perpendicular to the axis of rotation of the wheel (10)

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- The bracket (17, 18) is "generally" U-shaped with first and second laterally spaced-apart leg sections rearwardly extending from a front section
- The first and second pivot axes (20) are located at opposed sides of the wheel (10)
- The first and second pivot axes (20) are located forward of the axis of rotation of the wheel (10)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 9, 22, 29 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aielli ('523) in view of Donze et al. (US Patent 5,026,079).

Aielli teaches the features described above but lacks the teaching of telescoping handle arms.

Donze et al. teaches telescoping handle arms (16).

Based on the teachings of Donze et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to replace the handle arms of Aielli with telescoping handle arms to allow for easier stowage during transportation of the wheelbarrow and to permit the height or position of the handles

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to be adjusted depending on the stature of the user so as to avoid an uncomfortable working position.

6. Claims 24 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aielli ('523) in view of Leger et al. (US Patent 6,017,053).

Aielli teaches the features described above but lacks the teaching of a cable and a groove.

Leger et al. teaches a cable.

Based on the teachings of Leger et al., it would have been obvious to one having ordinary skill in the art, at the time the invention was made, to add a flexible cable to provide an economical means of securing the tray to the arms. The provision of a groove on the arms instead of the tray would have been obvious to one having ordinary skill in the art, at the time the invention was made, since Aielli teaches frame pins/rails (41) and a groove (42) and it was known in the art that the invention would work equally as well with the arrangement taught by Aielli.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Allsop et al. shows a collapsible wheelbarrow.

James et al. shows a big game gurney.

Leger et al. shows a folding wheelbarrow.

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Puckett shows a foldable wheelbarrow.

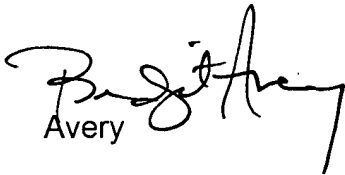
Clapp shows a collapsible wheelbarrow.

Edhardt shows a folding wheelbarrow.

Julstedt shows a convertible vehicle.

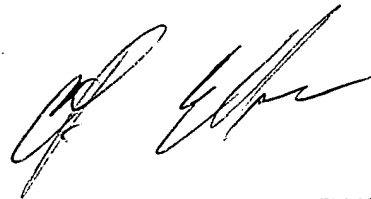
House et al. shows a wheelbarrow.

8. Any inquiry concerning this communication should be directed to Bridget Avery at telephone number 571-272-6691.



Avery

July 11, 2005



CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600